

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION V  
 230 South Dearborn Street  
 Chicago, Illinois 60604

IN THE MATTER OF: )

EDWIN COOPER, INC. )

Proceeding under Section 106(a)  
 of the Comprehensive Environmental  
 Response, Compensation and Liability  
 Act of 1980, 42 U.S.C. § 9606(6) and  
 under Section 3013 of the Resource  
 Conservation and Recovery Act,  
 42 U.S.C. § 6934. )

ADMINISTRATIVE ORDER

DOCKET NO.

V-W-84-007

ORDER

This Order is issued to Edwin Cooper, Inc. pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(6), and delegated to the U.S. Environmental Protection Agency (EPA) by Executive Order No. 12316, April 26, 1981, 46 Federal Register 42237, and redelegated to the Regional Administrator by Delegation 14-14 issued April 1, 1983, and pursuant to the authority vested in the Administrator of the EPA by Section 3013 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6934 and delegated to the Regional Administrator by Delegation 8-20 issued March 31, 1983. Notice of issuance of this Order has been given to the State of Illinois.

DETERMINATIONS AND FINDINGS

1. Edwin Cooper, Inc. is, and since approximately 1971 has been, the owner of a site located in Sauget, Illinois, where hazardous substances have been deposited, stored, disposed of, placed or located. Said site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9201(9) and shall hereinafter be referred to as the "facility."

2. On information and belief, prior to 1971, the facility had been owned and operated by Monsanto, Inc., inter alia, for the manufacture of a herbicide, commonly known as Agent Orange, produced by mixing the esters of 2,4-dichlorophenoxyacetic acid (2,4-D) and 2,4,5-trichlorophenoxyacetic acid (2,4,5-T).

3. Surficial soil samples were collected by Edwin Cooper during November and December of 1983 at various locations on site. Sixteen out of a total of twenty-one soil samples taken revealed the presence of 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) above detection limits.

4. 2,3,7,8-TCDD is an extremely toxic synthetic chemical, known to be associated with the manufacture of herbicides formulated with 2,4-D and 2,4,5-T. Because of the remarkable stability of 2,3,7,8-TCDD in biological systems and because of its extreme toxicity, cumulative effects of even extremely small doses present major concern. Even small traces of 2,3,7,8-TCDD in the environment may have adverse effects on health. The Center For Disease Control has determined that

because of the presence of 2,3,7,8-TCDD, portions of the facility present a potential imminent and substantial danger to employees of Edwin Cooper and to the public's health.

5. Edwin Cooper has heretofore commenced construction at the facility which has resulted, inter alia, in the following conditions at the site:

- a) uncovered, piled earth in and around a concrete depression in the vicinity of a warehouse building designated as "NP", which area shall hereinafter be referred to as "Area A," and is more specifically described in the map attached hereto as Exhibit A.
- b) an open trench extending from the end of Track 21 in the area adjacent to the warehouse building designated as "NP," which area shall hereinafter be referred to as "Area B" and is more specifically described in the the map attached hereto as Exhibit A.
- c) a large area of uncovered, piled earth located in the northwestern portion of the site, which area shall hereinafter be referred to as "Area C" and is more specifically described in the map attached hereto as Exhibit A.

6. The surficial soil samples referred to in Paragraph 3, above, revealed the presence of 2,3,7,8-TCDD in Area A at levels ranging to 100 parts per billion (ppb) and Area B at levels ranging to 5 ppb. The piled earth in Area C contains soil removed from Area B and is also believed to contain detectable amounts of 2,3,7,8-TCDD. Further, surficial soil samples in the area designated as "Area D" in the map attached hereto as Exhibit A revealed the presence of 2,3,7,8-TCDD at a level of 110 ppb in soil currently covered by a layer of crushed rock.

7. There are private residences beyond the facility to the north. Approximately seventeen of these residences are within 1000 feet of the facility.

8. On or about February 23 and February 24, 1984, representatives of the U.S. Environmental Protection Agency (EPA) conducted an inspection of the facility. At the time of the inspection, the following were observed at the facility.

- a) the piled earth in Area A and Area C continued to be uncovered;
- b) workers without protective gear were working in and around Area A;
- c) a backhoe was observed working in the piled earth in Area A and was later observed departing from said area without first being decontaminated.

9. Respondent has indicated that its present construction plans include the following: further excavation in the area of Track 21; backfilling the concrete depression in Area A with soil removed in the course of its excavations; filling and covering the trench in Area B; and asphaltting portions of Areas A and B as well as other locations at the facility. Respondent's proposed construction is described in a document, dated March 1, 1984, entitled "Description of Remaining Construction Work in the Unit 268 Construction Site (Project N-071) Edwin Cooper, Inc., Sauget Plant" heretofore submitted to EPA and attached hereto as Exhibit B. The area of proposed construction shall hereinafter be referred to as the "Track 21 area."

10. There may be an imminent and substantial endangerment to the public health or welfare or environment from an actual or threatened release of hazardous substances from the facility as follows:

- a) risk of wind-blown and rain runoff transmission of 2,3,7,8-TCDD-laden soil from areas of piled soil on site and from those areas which have recently been excavated or are expected to be excavated.
- b) risk of transmission of 2,3,7,8-TCDD-laden soil due to soil disturbance in the course of further excavation and/or construction at the facility;
- c) risk of further migration of 2,3,7,8-TCDD.

11. Based on the foregoing Findings, the Regional Administrator has determined that there may be a substantial hazard to human health or the environment as a result of the presence of a hazardous waste at the facility. The Regional Administrator has further determined that there may be imminent and substantial endangerment to the public health or welfare or the environment due to a release or threat of release of hazardous substances at the facility.

ORDER

12. Based on the foregoing Determination and Findings and pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(6) and Section 3013 of RCRA, 42 U.S.C. § 6934, it is hereby ORDERED that the Respondent shall take the following actions:

A. Within three days from the effective date of this Order, the piled earth in Area C shall be covered with a tarp or other material sufficient to prevent transmission or erosion

1  
N  
of  
pr.  
4.2

of the soil by wind or rain. Said covering shall be of high-quality, shall be undamaged and without tears, and shall be secured in such a manner as to ensure its effectiveness in adverse weather conditions (e.g. periods of high wind, heavy rainfall, and other similar anticipated weather conditions).

B. Within three days from the effective date of this Order, Respondent shall remove the piled earth in Area A, place it in bulk containers, and store it in a secure manner. Said bulk containers shall be structurally sound, shall be adequately lined and shall be secured with a close-fitting lid or top. In implementing this requirement, Respondent shall employ adequate dust control and health and safety measures under the oversight of U.S. EPA. In the event that Respondent elects to proceed with construction in the Track 21 area as set forth in Subparagraph E of this Paragraph 12, Respondent shall be deemed to have complied with this Subparagraph B by covering the contaminated soil in Area A in a manner similar to that provided in subparagraph 12 A, above, and submitting a plan for the securing of piled earth in Area A in accordance with Subparagraph E(ii), within three days from the effective date of this Order, and implementing said plan as approved by EPA.

C. Within thirty (30) days from the effective date of this Order, Respondent shall develop and submit to U.S. EPA, a proposal for further investigation and definition of the 2,3,7,8-TCDD contamination at the facility. Said proposal shall contain at least the following tasks:

- 100-20178  
344  
A
- i) a sampling plan for determining the lateral and vertical extent of 2,3,7,8-TCDD in the soil within the facility and outside the facility (including the extent of contamination in the piled earth in Areas A, B, and C);
  - ii) in the event that the vertical extent of 2,3,7,8-TCDD contamination exceeds at any point the highest seasonal water level underlying the facility (as determined by the U.S. Geological Survey or other similar authority), the proposal shall include a geological and hydrological study and a sampling plan for determining the extent, if any, of 2,3,7,8-TCDD contamination in the groundwater as a result of a release from the facility;
  - iii) a plan for identifying and locating sewer lines, buried pipe, and equipment which may be contaminated with 2,3,7,8-TCDD and ascertaining the extent of such contamination.
  - iv) a study of the topographic conditions at the facility which may affect the transmission of 2,3,7,8-TCDD through surface water runoff or otherwise.
  - v) a study of the history of the facility which will identify areas of Agent Orange formulation and other likely areas of 2,3,7,8-TCDD contamination.
  - vi) the plan shall be accompanied by a detailed work plan, safety plan and quality assurance/quality control plan for implementation of the tasks set forth above.

D. Respondent shall have the opportunity to confer with EPA regarding the proposal submitted pursuant to Subparagraph C, above. Any such conference shall be requested at the time such proposal is submitted, and said conference shall occur within thirty (30) days of the date said proposal is

submitted. EPA may approve the proposal with such modifications and/or additions as it shall deem appropriate. Within ten days of receipt of such approval, Respondent shall implement the tasks set forth in said proposal together with all written modifications or additions by EPA. Said proposal and written modifications and/or additions shall be deemed a part of this Order and shall be binding upon Respondent.

E. Unless otherwise agreed to in writing by representatives of U.S. EPA, Respondent shall cease any activities, including further construction at the facility, which would disturb the soil or piled earth at the facility. Notwithstanding the first sentence of this Subparagraph E, Respondent may, at its option, complete proposed construction at the facility in accordance with the document dated March 1, 1984 entitled "Description of Remaining Construction Work in the Unit 268 Construction Site (Project N-071) Edwin Cooper, Inc., Sauget Plant," attached hereto as Exhibit B, provided that:

- i) Prior to commencement of such construction, Respondent shall conduct further soil sampling in all areas which are to be covered with asphalt or concrete or other artificial covering pursuant to a soil sampling plan which shall be subject to prior approval of EPA.
- ii) No excavated 2,3,7,8-TCDD contaminated soil shall be placed in the "old dike area" as described in Exhibit B except in accordance with a plan to be subject to